IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.189 OF 2007

IN

CRIMINAL APPEAL NO.602 OF 2005

Shri Ravindra Shankar Gaikwad
and others : Applicants.

versus

The State of Maharashtra : Respondents.

Mr.O.A.Siddiqui for the applicants.
Mr.P.S.Hingorani, APP, for the State.
Mr.M.S.Mohite for the original complainant in appeal.

CORAM : D.G.DESHPANDE
SMT.NISHITA MHATRE, JJ.
DATED : JUNE 13, 2007.

P.C.

1. This is an application for bail filed by original accused Nos.4 - Ravindra Shankar Gaikwad, accused No. 5 - Anna alias Babdya Kisan Gavare and accused No.7 - Pramod @ Bapu Kalumar

Kanchan.

2. Heard both the sides. We have granted bail to original accused No.9 Smonath Kalumar Kanchan by our order dated 10th April 2007.

3. Original accused No.1 Gorakh Baban Kankate was granted bail by the Division Bench of this Court (comprising of D.G.Deshpande and S.A.Bobde, JJ) by an order dated 9.8.2006.

4. Deceased in this case is Vilas Londhe and the FIR was lodged by his brother Prakash Londe. Motive alleged by the prosecution is previous enmity between the parties. However, it has come on record that at the instance of present accused a case was instituted against the complainant. There was compromise between the parties and, the complainant and others were acquitted and, therefore, according to the accused, there was no motive or intention for the accused to attack the deceased.

5. In our earlier bail order we have noted from the proved facts that complainant Prakash

Londhe, twelve days after the incident, wrote a letter to the Home Minister to find out the truth regarding the attack on his brother. This letter, according to the advocate for the accused, clearly indicates that Prakash Londhe was not an eye witness. While granting bail to accused Gorakh this court has taken into consideration these submissions.

6. Apart from this, what we find is, the trial court in paragraph 11 found that even though according to Prakash Londhe - the complainant, there were four eye witnesses, they are P.W.2 Arjun Kokate, P.W.3 Ashok Mehtre, P.W.4 Pramod Londhe and P.W.5 Rajesh Taware, but the trial Court found that in his FIR (Exhibit 66) complainant Prakash Londhe did not inform the police that on 2.3.2002 he has asked the other witnesses to gather near Maruti temple. P.W. 4 Pramod also made an improvement in this regard i.e. getting the message of phone from Prakash Londhe to come to Maruti temple. In the evidence of P.W. 3 Ashok Mehtre also there is an improvement. Therefore, three wintesses have made improvements in this important aspect of the matter. Considering therefore over all view of

the matter and the circumstances noted above, this application is required to be allowed. Hence we pass the following order :-

:ORDER:

Criminal Application No.189 of 2007 is allowed.

Applicants - original accused Nos.4 - Ravindra Shankar Gaikwad, accused No. 5 - Anna alias Babdya Kisan Gavare and accused No.7 - Pramod @ Bapu Kalumar Kanchan be released on executing their P.R. bonds of Rs.10,000/- each with one solvent surety each in the like amount.

They will mark their presence to Kalbhor Police Station, Pune once in a fortnight between 4.00 p.m. to 6.00 p.m. till the appeal is decided.

Substantive sentence of the applicants/accused is suspended, pending appeal.

Fine, if any, to be paid by the applicants/accused before their release.

Applicants/accused shall not try to contact any of the prosecution witnesses or will not try to influence any one of them directly or indirectly.

Criminal Application is disposed off accordingly.

[D.G.DESHPANDE, J.]

[SMT.NISHITA MHATRE, J.]